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IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CV 08

0108

UNITED STATES OF AMERICA and
 DONNA DILORETO, Revenue Officer,

Petitioners,

v.

ELLIS RAY MOSELEY,

Respondent.

NO.

**VERIFIED PETITION TO
 ENFORCE INTERNAL
 REVENUE SERVICE SUMMONS**

Petitioners, the UNITED STATES OF AMERICA and its Revenue Officer, DONNA
 DILORETO, allege and petition as follows:

1. This proceeding is brought and this Court has jurisdiction hereof under Sections
 7402(b) and 7604(a) of the Internal Revenue Code (26 U.S.C. §§ 7402 and 7604).

2. Petitioner DONNA DILORETO is and at all times mentioned herein was an
 employee and officer of the Internal Revenue Service of the United States Department of the
 Treasury authorized by the Secretary of the Treasury to perform the duties and take the actions
 described in Sections 7602 and 7603 of the Internal Revenue Code (26 U.S.C. §§ 7602 and
 7603), under Treasury Regulations §§ 301.7602-1 and 301.7603-1 (26 C.F.R. §§ 301.7602-1 and
 301.7603-1).

1 3. Petitioner **DONNA DILORETO** is and at all times mentioned herein was
2 attempting in the course of authorized duties to determine and collect certain federal tax
3 liabilities of **ELLIS RAY MOSELEY** for the tax year of 2004, 2005 and 2006.

4 4. Petitioner **DONNA DILORETO** is and at all times herein was attempting in the
5 course of authorized duties to have respondent produce for inspection, examination and copying
6 by petitioner certain records possessed by respondent which are relevant and material to attempt
7 to determine and collect the aforementioned federal tax liabilities of **ELLIS RAY MOSELEY**,
8 for the period stated in paragraph 3 above.

9 5. Respondent **ELLIS RAY MOSELEY**'s last known address is P.O. Box 1148,
10 Redwood City, CA 94064-1148, which is within the venue of this Court.

11 6. Petitioner **DONNA DILORETO** is informed and believes that said respondent is
12 in possession and control of records, paper and other data regarding income and other matters
13 covered by said petitioner's inquiry and to which petitioners do not otherwise have access,
14 possession, or control.

15 7. On October 19, 2007, in accordance with law, Petitioner **DONNA DILORETO**
16 served a summons on respondent **ELLIS RAY MOSELEY** in respect to the subject matter
17 described in paragraphs 3, 4, and 6 above, by handing an attested copy of the summons at the last
18 and usual place of abode of the respondent **ELLIS RAY MOSELEY**. The requirements of said
19 summons are self-explanatory, and a true copy thereof is attached hereto as Exhibit A and is
20 hereby incorporated by reference as a part of this petition.

21 8. The items sought by the summons described in paragraph 7 above are relevant to
22 and can reasonably be expected to assist in the determination and collection of the above-
23 mentioned federal tax liabilities of **ELLIS RAY MOSELEY** for the years stated in paragraph 3
24 above. It was and now is essential to completion of petitioner's inquiry regarding the
25 determination and collection of the above-mentioned federal tax liabilities of **ELLIS RAY**
26 **MOSELEY** for the years stated in paragraph 3 above that respondent produce the items
27 demanded by said summons.

28 ///

1 9. The respondent did not appear on November 19, 2007, as requested in the
2 summons.

3 10. By letter dated November 28, 2007, respondent **ELLIS RAY MOSELEY** was
4 provided with another opportunity to comply by appearing for an appointment with Petitioner
5 **DONNA DILORETO** on December 10, 2007. See Exhibit B.

6 11. As of the date of this petition, the respondent has failed to comply with the
7 summons.

8 12. All administrative steps required by the Internal Revenue Code for issuance of the
9 summons have been taken.

10 13. There has been no referral to the Department of Justice for criminal prosecution
11 of the matters described in the summons.


12 **WHEREFORE**, having stated in full their petition against the respondent, petitioners
13 pray for enforcement of the subject summons as alleged and set forth above, as follows:

14 A. That the named respondent herein be ordered to appear and show cause before this
15 Court, if any, why respondent should not be compelled by this Court under 26 U.S.C. § 7604(a)
16 to give such testimony and to produce such items as are required in the herein above-described
17 summons;

18 B. That respondent be ordered by the Court to appear before the petitioner **DONNA**
19 **DILORETO** or any other designated officer, at a time and place directed by the Court and then
20 and there give such testimony and produce such items as is required by the summons; and

21 C. That the Court grant the petitioner **UNITED STATES OF AMERICA** its costs
22 in this proceeding and such other and further relief as may be necessary and proper.

23 SCOTT N. SCHOOLS
24 United States Attorney

25 
26 THOMAS M. NEWMAN
27 Assistant United States Attorney
28 Tax Division

VERIFICATION

I, **DONNA DILORETO**, pursuant to 28 U.S.C. § 1746, declare and state as follows:

I am a duly employed Revenue Officer in the Redwood City, California office of the Internal Revenue Service of the United States Treasury Department. I am one of the petitioners making the foregoing petition. I have read and know the entire contents of the foregoing petition, and all statements of fact contained in said petition are true to the best of my own personal knowledge and recollection, and as to those facts stated upon information and belief, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-28-07 at Redwood City, California.


DONNA DILORETO



Summons

Income Tax Return

In the matter of ELLIS RAY MOSELEY

Internal Revenue Service (Identify Division) SMALL BUSINESS/SELF EMPLOYED

Industry/Area (Identify by number or name) SB/SE AREA 7 (27)

Periods: Form 1040 for the calendar period ending December 31, 2004, December 31, 2005, December 31, 2006

The Commissioner of Internal Revenue

To: ELLIS RAY MOSELEY

At: PO BOX 1148, REDWOOD CITY, CA 94064-1148

You are hereby summoned and required to appear before DONNA DILORETO, an Internal Revenue Service (IRS) officer, to give testimony and to bring for examination the following information related to the tax liability of the person identified above for the periods shown:

All documents and records you possess or control about income you received for the years: 2004, 2005, 2006

These records and documents include, but are not limited to: Forms W-2 (Wage and Tax Statement), Forms 1099 for interest and dividend income, employee earnings statements, and records of deposit with banks or other financial institutions.

Also include all other books, records, documents and receipts for income from, but not limited to, the following sources: wages, salaries, tips, fees, commissions, interest, rents, royalties, alimony, state or local tax refunds, annuities, life insurance policies, endowment contracts, pensions, estates, trusts, discharge of indebtedness, distributive shares of partnership income, business income, gains from dealings in property, and any other compensation for services (including receipt of property other than money). Include all documents and records about any income you assigned to any other Person or entity.

IRS will use this information to prepare a federal income tax return for the following year(s) when you didn't file a return: 2004, 2005, 2006

We have attached a blank return to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

700 JEFFERSON, 2ND FLOOR, REDWOOD CITY, CA 94063-1833 (650) 298-0430

Place and time for appearance: At 700 JEFFERSON, 2ND FLOOR, REDWOOD CITY, CA 94063-1833



on the 19th day of November, 2007 at 10:00 o'clock a m.

Issued under authority of the Internal Revenue Code this 19th day of October, 2007

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6638 (Rev.4-2005)
Catalog Number 61828W

DONNA DILORETO

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title

Exhibit A

Original -- to be kept by IRS



Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date 10-19-07	Time 1:20 pm
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How



I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was



I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any):

Served

Signature

[Handwritten Signature]

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

[Handwritten Signature]

Title

Revenue Officer



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
OFFICE OF CHIEF COUNSEL
SMALL BUSINESS/SELF-EMPLOYED DIVISION COUNSEL
160 SPEAR STREET, 9TH FLOOR
SAN FRANCISCO, CA 94105
(415) 227-5168
FAX (415) 227-5159

NOV 28 2007

CC:SB:7:SF:1:GL-151980-07
BSLaurie

Ray Moseley
1122 Ruby Street
Redwood City, CA 94061

Dear Mr. Moseley:

The Small Business/Self-Employed Area: Area Collection office of the Internal Revenue Service has notified our office that you did not comply with the provisions of the summonses served on you on October 19, 2007. Copies of those summonses are enclosed. Under the terms of the summonses, you were required to appear before Revenue Officer Donna DiLoreto on November 19, 2007.

Legal proceedings may be brought against you in the United States District Court for not complying with these summonses. To avoid such proceedings, you are to appear before Revenue Officer:

Name: Donna DiLoreto
Date: December 10, 2007
Time: 9:00 A.M.
Address: 700 Jefferson Ave., 2nd Floor
Redwood City, CA 94063

CC:SB:7:SF:1:GL-151980-07 - 2 -

Any books, records or other documents called for in the summonses should be produced at that time. If you have any questions, please contact Revenue Officer Donna DiLoreto at (650) 298-0430, extension 105.

Sincerely,

By: /s/ **/s/ Thomas R. Mackinson**
THOMAS R. MACKINSON
Associate Area Counsel (San
Francisco, Group 1)
(Small Business/Self-Employed)

Enclosures (2):

Summons (Income Tax Return) originally served on October 19, 2007

Summons (Collection Information Statement) originally served on October 19, 2007

CC: Revenue Officer Donna DiLoreto